REMARKS

Claims 5-15 and 20-34 remain in this application for examination.

Applicant expresses his sincere appreciation for the indication of allowable subject matter in claims 8-15 and 23-29, however upon carefully reviewing the cited reference to Hu et al. '661 it is Applicant's opinion that the amendments to independent claims 32 and 33 also render these claims allowable and respectfully requests that the Examiner reconsider the rejection of Applicants claims as obvious in view of Hu et al. '661.

Claims 5-7, 20-22, 30 and 34 have been rejected under 35 USC §103(a) as being unpatentable over Hu et al. '661. Applicant respectfully traverses this rejection. Referring specifically to independent claims 32 and 33, in the Final Rejection the Examiner states at page 3, lines 3-7 that "it would have been obvious to one skilled in the art to adjust the number of channels and/or the gap between the opening and piercing member to provide the claimed results." Both claim 32 and claim 33 now clearly specify that the piercing element has a substantially cylindrical engagement portion to pierce the outlet opening of the cartridge. Consequently, so that when the piercing member forms the outlet opening of the cartridge, and fluid enters into the cartridge, regulation is provided for dispensing the beverage by means of a delivery port, wherein the delivery port is disposed between the wall of said piercing member and the edge of said outlet opening during dispensing of the beverage. Such an opening in the bottom wall of the cartridge is not carried out by the reaction force generating member (4) of the system for preparing a beverage as is the case with Hu et al. '661.

Hu et al. '661 disclose a capsule and a method for preparing a beverage. The capsule comprises a bottom wall (17) provided with an opening member (20) including a continuous pre-cut line (21) and a folding means (22) so that the opening member is capable of folding inwardly along the folding line. An engagement member (the reaction forced generating member) comprises a pressure engaging surface (41) that is adapted to hold said opening member (20). The engagement

member of Hu et al. '661 is capable of holding pressure inside the capsule when controlling release of the beverage. The engaging surface is larger than the openable member "so as to effect the opening according to a limited range of angulation" (see paragraph [0028] at page of Hu et al. '661). For achieving the result wherein the engagement member is capable of holding pressure inside the capsule and controlling release of the beverage, "the engaging surface is adapted to create a tight surface contact with a certain area of the discharge surface of the capsule" (see page, paragraph [0031]). As a result of this location of the engaging surface of the engagement member, "the outflow coming out of the opening in the capsule is restricted to some extent by the engaging surface that surrounds the opening (see page 4, paragraph [0039]).

Consequently, Hu et al. '661 clearly disclose that the engaging surface (41) of the engaging member provides an opening to a limited range of angularization so that the engaging surface creates a tight surface contact with a discharge surface of the capsule. Accordingly, Hu et al. '661 does not disclose that the engagement member opens the openable member by entering into the capsule through a created opening in order to form a space between the engagement member and the outlet profile. Thus, Hu et al. '661 does not disclose the features of claims 32 and 33 with respect to the cylindrically shaped piercing member of the device according to claim 32 which enters the capsule in order to form internal throttling within the capsule. This is clearly specified in claims 32 and 33 in the recitation that at least one delivery port is disposed between the wall of the piercing member and the edge of the outlet opening. In order to clarify the difference between the device and method according to Applicant's claims 32 and 33, Applicant has amended the claims by adding that the delivery port in claim 33 and outlet opening in claim 32 extend around the perimeter of the cylindrical engagement portion of the piercing member.

The amendments to claims 32 and 33 are fully supported by the specification as originally filed (see page 6, lines 20-22 of Applicant's specification). In view of the above, it is evident that the ratio R (between the diameter D2 of the engagement portion of the piercing member and the diameter D1 of the outlet opening D1 is $1 \leq R \leq 1.067$) is an important limitation in both the method

and the device claimed so as to repeatedly carry out the aims of the present invention. Accordingly, the ratio R is not obvious on the basis of radial distribution of the channels on the surface of the engagement member, which surface merely comes into contact with the surface of the outlet opening.

According to Applicant's invention, the space (10) between the cartridge and the piercing member during dispensing of the beverage provides temporary throttling, which throttling allows the production of beverages having optimum appearance, wherein a high amount of foam (cream) is produced. The soluble product is homogenously solubilized and excellent beverage quality is obtained due to an efficatious extraction phase allowed by the generated internal throttling effect.

Clearly, Hu et al. '661 does not disclose the dispensing group according to the amended apparatus claim 32, nor according to the method of amended claim 33, wherein a piercing cylinder is used which enters the bottom wall of the outlet opening 8 for performing a throttling phenomenon.

In that this is a full and complete response to the Final Office Action of May 22, 2009, it is respectfully requested that this application be allowed and passed to issue. If the Examiner for any reason feels that a personal conference might expedite prosecution of this application, the Examiner is respected requested to telephone the undersigned locally.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

/John R. Moses/

John R. Moses

MILLEN, WHITE, ZELANO
& BRANIGAN, P.C.
Arlington Courthouse Plaza 1, Suite 1400
2200 Clarendon Boulevard
Arlington, Virginia 22201
Telephone: (703) 243-6333
Facsimile: (703) 243-6410
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